

## § 235.3

### § 235.3 Reasonable and proportional interchange transaction fees.

(a) *In general.* The amount of any interchange transaction fee that an issuer may receive or charge with respect to an electronic debit transaction shall be reasonable and proportional to the cost incurred by the issuer with respect to the electronic debit transaction.

(b) *Determination of reasonable and proportional fees.* An issuer complies with the requirements of paragraph (a) of this section only if each interchange transaction fee received or charged by the issuer for an electronic debit transaction is no more than the sum of—

(1) 21 cents and;

(2) 5 basis points multiplied by the value of the transaction.

### § 235.4 Fraud-prevention adjustment.

(a) *In general.* If an issuer meets the standards set forth in paragraph (b) of this section, it may receive or charge an additional amount of no more than 1 cent per transaction to any interchange transaction fee it receives or charges in accordance with § 235.3.

(b) *Issuer standards.* To be eligible to receive the fraud-prevention adjustment, an issuer shall—

(1) Develop and implement policies and procedures reasonably designed to—

(i) Identify and prevent fraudulent electronic debit transactions;

(ii) Monitor the incidence of, reimbursements received for, and losses incurred from fraudulent electronic debit transactions;

(iii) Respond appropriately to suspicious electronic debit transactions so as to limit the fraud losses that may occur and prevent the occurrence of future fraudulent electronic debit transactions; and

(iv) Secure debit card and cardholder data; and

(2) Review its fraud-prevention policies and procedures at least annually, and update them as necessary to address changes in prevalence and nature of fraudulent electronic debit transactions and available methods of detecting, preventing, and mitigating fraud.

(c) *Certification.* To be eligible to receive or charge a fraud-prevention ad-

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justment, an issuer that meets the standards set forth in paragraph (b) of this section must certify such compliance to its payment card networks on an annual basis.

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### § 235.5 Exemptions.

(a) *Exemption for small issuers—*(1) *In general.* Except as provided in paragraph (a)(3) of this section, §§ 235.3, 235.4, and 235.6 do not apply to an interchange transaction fee received or charged by an issuer with respect to an electronic debit transaction if—

(i) The issuer holds the account that is debited; and

(ii) The issuer, together with its affiliates, has assets of less than \$10 billion as of the end of the calendar year preceding the date of the electronic debit transaction.

(2) *Determination of issuer asset size.* A person may rely on lists published by the Board to determine whether an issuer, together with its affiliates, has assets of less than \$10 billion as of the end of the calendar year preceding the date of the electronic debit transaction.

(3) *Change in status.* If an issuer qualifies for the exemption in paragraph (a)(1) in a particular calendar year, but, as of the end of that calendar year no longer qualifies for the exemption because at that time it, together with its affiliates, has assets of \$10 billion or more, the issuer must begin complying with §§ 235.3, 235.4, and 235.6 no later than July 1 of the succeeding calendar year.

(b) *Exemption for government-administered programs.* Except as provided in paragraph (d) of this section, §§ 235.3, 235.4, and 235.6 do not apply to an interchange transaction fee received or charged by an issuer with respect to an electronic debit transaction if—

(1) The electronic debit transaction is made using a debit card that has been provided to a person pursuant to a Federal, State, or local government-administered payment program; and

(2) The cardholder may use the debit card only to transfer or debit funds, monetary value, or other assets that have been provided pursuant to such program.